

## Message Text

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FM SECSTATE WASHDC  
TO USMISSION IAEA VIENNA PRIORITY

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E.O. 11652: N/A  
TAGS: IAEA TECH  
SUBJ: DRAFT US/IAEA SAFEGUARDS AGREEMENT AND PROTOCOL

REF: IAEA VIENNA 9274 AND STATE 235658

1. REVIEW OF DRAFT PROTOCOL HAS LED TO FOLLOWING  
PROPOSED CHANGES IN BOTH PROTOCOL AND AGREEMENT:

A. DRAFT AGREEMENT

1. REVERSE SEQUENCE OF ARTICLES 12 AND 13  
TO PARALLEL PARAGRAPHS IN INFIRC/153. MAKE  
CORRESPONDING CHANGES TO REFERENCES IN ARTICLES  
35 AND 36.
2. COMBINE ALL THE ESSENTIAL PROVISIONS OF  
ARTICLE 12, P-ARTICLE 4, AND PART OF ARTICLE 14  
INTO NEW ARTICLE 12, AS FOLLOWS:

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ZARTICLE 12

THE UNITED STATES SHALL HAVE THE  
RIGHT TO TRANSFER NUCLEAR MATERIAL SUBJECT  
TO SAFEGUARDS UNDER THIS AGREEMENT TO A  
DESTINATION OTHER THAN THOSE FACILITIES  
IDENTIFIED BY THE AGENCY, PURSUANT TO  
ARTICLE 2.B. AND 39.B. (I) AND (II). THE UNITED  
STATES SHALL NOTIFY THE AGENCY OF SUCH TRANSFERS  
IN ACCORDANCE WITH THE RELEVANT PROVISIONS  
OF PART II. IN SUCH CASES, THE AGENCY SHALL TERMINATE  
THE APPLICATION OF SAFEGUARDS TO SUCH MATERIAL WHEN  
IT IS TRANSFERRED OUT OF THE FACILITY IN WHICH  
IT IS BEING SAFEGUARDED. IF SUCH MATERIAL IS  
BEING TRANSFERRED TO AN ACTIVITY WITH DIRECT  
NATIONAL SECURITY SIGNIFICANCE TO THE UNITED  
STATES, THE UNITED STATES SHALL ASSURE THE AGENCY  
THAT THE INTENDED USE OF THE NUCLEAR MATERIAL WILL  
NOT BE IN CONFLICT WITH AN UNDERTAKING THE UNITED  
STATES MAY HAVE GIVEN AND IN RESPECT OF WHICH  
AGENCY SAFEGUARDS APPLY, THAT THE MATERIAL WILL  
BE USED ONLY IN A PEACEFUL NUCLEAR ACTIVITY.  
THE AGENCY SHALL MAINTAIN RECORDS INDICATING  
SUCH TRANSFERS AND, WHERE APPLICABLE, THE RE-  
APPLICATION OF SAFEGUARDS TO THE TRANSFERRED  
NUCLEAR MATERIAL."

3. COMBINE ALL ESSENTIAL PROVISIONS OF ARTICLE 34B,

P-ARTICLE 3, AND PART OF ARTICLE 14 INTO REVISED

ARTICLE 34B, AS FOLLOWS:

REVISED ARTICLE 34.B.

FACILITIES SHALL BE ADDED TO OR REMOVED FROM THE LIST, AS THE  
CASE MAY BE, IN ACCORDANCE WITH, AND AT TIMES SPECIFIED IN,  
NOTIFICATION BY THE UNITED STATES, PURSUANT TO ARTICLE I.B.  
IN THE CASE OF REMOVAL OF A FACILITY THEN CURRENTLY  
IDENTIFIED BY THE AGENCY PURSUANT TO ARTICLES 2.B AND 39.B.  
(I) AND (II), SAFEGUARDS ON THE NUCLEAR MATERIAL  
CONTAINED IN THE FACILITY SHALL TERMINATE IN ACCORDANCE WITH,  
AND AT THE TIME SPECIFIED IN, NOTIFICATION BY THE UNITED  
STATES. WITH RESPECT TO SUCH MATERIAL, THE UNITED  
STATES SHALL ASSURE THE AGENCY THAT THE INTENDED USE OF  
THE NUCLEAR MATERIAL WILL NOT BE IN CONFLICT WITH AN  
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UNDERTAKING THE UNITED STATES MAY HAVE GIVEN AND IN  
RESPECT OF WHICH AGENCY SAFEGUARDS APPLY, THAT THE MATERIAL  
WILL BE USED ONLY IN A PEACEFUL NUCLEAR ACTIVITY."

4. DELETE ARTICLE 14, AND RENUMBER ARTICLES ACCORDINGLY.

B. DRAFT PROTOCOL

1. DELETE P-ARTICLES 3 AND 4, AND RENUMBER P-ARTICLES

ACCORDINGLY. MAKE APPROPRIATE CHANGES TO REFERENCES IN P-ARTICLE 1 AND P-ARTICLE 5, AS FOLLOWS:

A. P-ART. 1-DELETE PHRASE "AND MAINTENANCE", AND ALL OR PARAGRAPH (II), RENUMBERING (III) AND (IV) ACCORDINGLY.

B. P-ART. 5.A - DELETE PHRASE "AND ARTICLE 3 OF THIS PROTOCOL."

2. BENEFITS OF FOREGOING PROPOSED CHANGES ARE (A) ELIMINATION OF A POTENTIALLY CONFUSING REDUNDANCY IN AGREEMENT AND PROTOCOL OF TWO PRINCIPLES, I.E., ADDITION OR REMOVAL OF FACILITIES FROM ELIGIBLE LIST AND REMOVAL OF MATERIAL FROM SAFEGUARDS, AND (B) CONSOLIDATION IN PARTS I AND II OF AGREEMENT OF THOSE PROVISIONS DEALING WITH SAFEGUARDED FACILITIES, LEAVING PROTOCOL TO COVER, PRINCIPALLY, UN-SAFEGUARDED FACILITIES AND RELATED TRANSITIONAL FACILITY ATTACHMENTS (TFA)

3. OTHER COMMENTS ON DRAFT PROTOCOL AS FOLLOWS:

A. P-ARTICLE I - WOULD PREFER USE PHRASE "WHICH HAS SAME FORCE AND EFFECT AS THE AGREEMENT" IN LIEU OF "WHICH IS AN INTEGRAL PART OF THE AGREEMENT" TO AVOID ANY CONFUSION AS TO WHICH DOCUMENT IS BEING REFERRED TO WHEN PROVISIONS OF "THE AGREEMENT" ARE REFERRED TO. CHANGE REF TO "ARTICLE ER" TO ARTICLE 34-A."

B. P-ARTICLE 1 AND ARTICLE 2 - ADD "TO THE UNITED STATES" AFTER "NATIONAL SECURITY SIGNIFICANCE."

C. P-ART. 2 - REPLACE "SIMULTANEOUSLY HEREWITHE" WITH "ON THE DATE OF ENTRY INTO FORCE OF THIS PROTOCOL." REPLACE "ANNEXED HERETO" WITH "ANNEXED TO THIS PROTOCOL". ADD "WITHIN THE UNITED STATES" BETWEEN "FACILITIES" AND "NOT ASSOCIATED."

D. P-ARTICLE 5A - CHANGE PHRASE "THIS AGREEMENT" TO "THE AGREEMENT" HERE AND ELSEWHERE IT MAY APPEAR  
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IN PROTOCOL. CHANGE "ARTICLE 1B" TO "ARTICLES 1B AND 34B," AND "ARTICLE 2B" TO ARTICLES 2B AND 39B(1) OR (II)."

E. P-ART. 5.B. - CHANGE "ARTICLE 2?" TO "ARTICLES 2B AND 39.B (1) AND (II)," AND "ARTICLE 39.(III)" TO "ARTICLE 39.B(III)." ARTICLE 5.B. AND C. - CHANGE "FOREGOING SUB-PARAGRAPH" TO FOREGOING PARAGRAPH", MAKING PLURAL IN CASE OF C.

F. ARTICLE 6.B - CHANGE REFERENCE TO "ARTICLE 8" TO "ARTICLE 9" AND "ARTICLES 9 AND 10" TO "ARTICLES 10 AND 11." ALSO CHANGE "ARTICLES 11 THROUGH 21" TO "ARTICLES 12 THROUGH 21." NOT CERTAIN WHY WORD "ASPECTS" USED, AND SUGGEST REPLACING WITH "PROVISIONS" IN TWO PLACES WHERE WORD IS USED. ALSO SUGGEST REPLACING PHRASE "CORRESPOND TO" WITH

"SATISFY", AND REPLACING PHRASE "WHICH ADDRESS"  
WITH "RELATING TO."

4. PER VIENNA 9691, UNDERSTAND MISSION PLANNING SUGGEST  
POSSIBLE ADDITIONAL LANGUAGE FOR PROTOCOL AS RESULT DIS-  
CUSSIONS WITH FRG REPS. KISSINGER

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## Message Attributes

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